

OFFICE OF PASSENGER TRANSPORTATION
FFY 2007 DBE Goal

OVERALL GOAL

Maine DOT, through its Office of Passenger Transportation, intends to expend 0.6 % of the amounts received from federal financial assistance on FTA-assisted contracts with certified small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). Because for the last five years, the Maine DOT has met and exceeded the former 0.8% DBE goal for FTA, and because we fully believe this goal can be met without contract specific goals, Maine DOT intends to fulfill the goal with a wholly race neutral program.

METHOD OF ESTABLISHING GOAL

Step 1 – Determining a base figure

49 CFR 45 (b) States “Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the “relative availability of DBEs”). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.”

Maine DOT will calculate the overall goal using the criteria based in **49 CFR § 26.45(c) “Step 1. You must begin your goal setting process by determining a base figure for the relative availability of DBEs.”**

The determination will be based on a level of DBE participation relative to all businesses ready, willing and able to participate on FTA-assisted contracts, and reflect a level Maine DOT would expect in the absence of discrimination. The overall goal setting procedure is based on the following:

- (1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.**

Market Area:

The market area was determined to be Statewide, since the substantial majority of the contractors and subcontractors with which MaineDOT does business are located in Maine, and the entire state is the area in which MaineDOT spends the substantial majority of its contracting dollars.

Data Sources:

The NAICS data for transit providers, agencies/firms included in category 485,

NAICS code	Description	<u>Estab-lish-ments</u>	<u>Revenue (\$1,000)</u>	<u>Annual payroll (\$1,000)</u>	<u>Paid employees</u>
485	<u>Transit & ground passenger transportation</u>	85	49,395	21,047	1,272
4853	<u>Taxi & limousine service</u>	44	11,060	4,223	332
48531	<u>Taxi service</u>	29	5,479	2,042	224
48532	<u>Limousine service</u>	15	5,581	2,181	108
4854	<u>School & employee bus transportation</u>	21	17,946	8,418	555
4859	<u>Other transit & ground passenger transportation</u>	10	10,284	3,818	206

Economic Census 2002, Maine Data for NAICS 485

There are no DBE firms in Maine's catalog under these NAICS codes. However, there are firms that offer support and engineering services to transit providers including additional categories.

The Maine DOT DBE Catalog Lists the following firms when searching under the category "transit". None of these firms are prime DBE transit providers. Their scopes are related to the NAICS codes for other services related to transit contracts/subcontracts.

- **ALTERNATE TRANSIT ADVERTISING, INC.**
- **KKO & ASSOCIATES, LLC**
- **OAK SQUARE RESOURCES LLC**
- **TRANSIT SAFETY MANAGEMENT INC.**
- **UNITED INTERNATIONAL CORPORATION**

The following NAICS codes match the codes offered by the above providers for Maine.

5413	<u>Architectural, engineering, & related services</u>	593	533,438	226,469	5,091
5418	<u>Advertising & related services</u>	146	219,344	49,978	1,578
54191	<u>Marketing research & public opinion polling</u>	19	7,296	2,912	140

Economic Census 2002, Maine Data for various NAICS codes related to transit contracts/subcontracts

Therefore, the denominator would be $85 + (593+146+19) = 843$ to represent all potential transit firms and transit related firms for potential contracts and subcontracts in Maine.

The numerator would be 5.

The base goal based upon the 2002 census and DBE Directory data would be: $5/843 = 0.6\%$

(2) Use a bidders list. Determine the number of DBEs that have bid or quoted on your DOT-assisted prime contracts or subcontracts in the previous year. Determine the number of all businesses that have bid or quoted on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number for all businesses to derive a base figure for the relative availability of DBEs in your market.

The Department's bidders list of actual and potential FTA funding sub-recipient agencies/firms is as follows:

Bidders that submitted either prime or subcontract bids on FTA funded work for the last 3 years:

1. AMES	2. Alternate Transit Advertising, Inc.
3. Androscoggin Valley Council of Governments	4. Aroostook Regional Transportation
5. Ashton Associates Incorporated	6. Bangor Chrysler, Plymouth, Dodge
7. Barton & Gingold	8. BAT Community Connector
9. BACTS	10. Biddeford-Saco-Old Orchard Beach Transit Committee
11. BMI	12. Carolyn Ridge
13. Casco Bay Island Transit District	14. Casey & Godfrey
15. City of Bath	16. Coastal Transportation. Inc.
17. Community Concepts	18. DMJM Harris
19. Domenech, Hicks & Krockmalnic Architects	20. Don Brown Bus Sales
21. Downeast Transportation	22. Economic Dev Research Group
23. Fitzgerald & Halliday, Inc.	24. Freeport Transit, Inc.
25. Garrand & Company, Inc.	26. Greater Portland Council of Governments
27. HNTB Corporation	28. Holt & Lachman
29. Howard/Stein-Hudson	30. IBI Group
31. ICST, Inc.	32. Innovative Resource Group
33. Jack Smith Consulting	34. Kay Nordstrom
35. Kennebec Valley Community Action Program	36. Keville Enterprises
37. KFH Group, Incorporated	38. KKO & Associates, LLC
39. KM CHNG Environmental	40. Land Design Group,
41. Larry Glantz/Muskie	42. Lincoln Chevrolet
43. Matthews Buses	44. McMahon
45. METRO	46. Mike Merwin
47. Mobilestrat, Inc.	48. Mundle & Assoc.
49. Normandeau,	50. Northern Bus Sales
51. Northstar Hydro	52. O'Connor GMC
53. Oak Square Resources, LLC	54. Patsy's, Inc.
55. Penquis CAP	56. Peter Schauer
57. Precision Compliance	58. Pupil Transportation Consultants
59. Quisqueya Software and Systems, Inc.	60. Regional Transportation Program
61. Sharon Eaton	62. Shepard Bros.

63. Smart Associates	64. Smith Group
65. South Portland Bus Service	66. Southern Maine Planning Commission
67. Systra	68. Tom Crikelair
69. TranSytems Corporation	70. URS Corporation
71. V.I.P. Tours and Travel	72. VHB, Inc.
73. Von Grossman and Company	74. W.C. Cressey & Son, Inc.
75. Waldo Community Action Partners	76. Walker Chevrolet, Inc.
77. Warner Trans Consulting	78. Washington Hancock Community Agency
79. West's Transportation, Inc.	80. Western Maine Transportation Services
81. Wilbur Smith Associates	82. York County Community Action Corp.

Total number of bidders = 82 firms. The number 82, therefore, is the denominator.

Of these firms, the following are DBE's:

1. Alternate Transit Advertising	2. Ashton Associates Incorporated
3. Barton & Gingold	4. Fitzgerald & Halliday, Inc.
5. Garrand & Company, Inc.	6. Howard/Stein-Hudson
7. ICST, Inc	8. Innovative Resource Group
9. Kay Nordstrom	10. Keville Enterprises
11. KFH Group, Incorporated	12. KKO & Associates, LLC
13. KM CHNG Environmental	14. Mobilestrat, Inc.
15. Northstar Hydro	16. Oak Square Resources, LLC
17. Precision Compliance	18. Quisqueya Software and Systems, Inc.
19. Smart Associates	20. Von Grossman and Company

Number of bidding DBE's = 20 firms.

Therefore for the base goal, 20 is the numerator.

$$20/82 = 24.3\%$$

We know from past attainment that this is not a reasonable base goal. Although we are fortunate to have a large proportion of DBE bidders, they are primarily bidding on small subcontracts which amount to lower attainment in dollars.

(3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.

Maine has not had any disparity studies that would apply to the calculation of this goal.

(4) Use the goal of another DOT recipient. If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

New Hampshire and Vermont have substantially similar markets for Transit contracting.

- Vermont's base goal for 2006 is 3.4% with no adjustment.
- New Hampshire's base goal for 2007 is calculated several ways for comparison. The results are 1.69%, 9.09%, or 7.48%, depending on the formula. The overall goal with adjustment is 2.0%.

A base goal of either 2.0% or of 3.4% would be reasonable with adjustments for differences in Maine. However, Maine does have sufficient other data to produce an independent base goal.

(5) Alternative methods. You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

MaineDOT does not propose any alternative method for base goal calculation.

Maine DOT FTA –Funded DBE BASE GOAL = 0.6%

Step 2 - ADJUSTMENTS TO BASE

26.43(d) states “Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any is needed to the base figure in order to arrive at your overall goal.”

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

Past participation in FTA funded services for the Department are as follows:

<u>FFY 02</u>	<u>FFY 03</u>	<u>FFY 04</u>	<u>FFY 05</u>	<u>FFY 06</u>
.01%	2.2%	1.3%	2.6%	1.1%

Details of data presented above:

- 03 is \$26,209 out of \$1,193,288 and 1 prime and 1 subcontract out of 57 prime contracts 2.2%.
- 04 is \$27,598 out of \$2,094,402 and 2 primes and 2 subcontracts out of 35 primes for 1.3%
- 05 is \$106, 575 out of total \$4,113,600 and 2 prime and 2 subcontracts of totals 61 prime and 11 subcontracts.
- 06, first period, is \$38,420 out of \$3,678,809 and 0 prime contracts and 3 subcontracts out of 23 prime and 3 subcontracts.

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

There are no related disparity studies for Maine.

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

The base figure selected is not the goal of another recipient.

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

- (i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;**

Maine has not collected this data.

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

Maine has not collected this data.

(2) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the ``but for'' factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

Maine will not attempt to adjust the base figure.

OVERALL GOAL CALCULATION

FFY 2006 FTA adjusted DBE goal: 0.6%

Race Neutral and Conscious Measures

The Department was able to exceed its DBE goal for 2005 due to DBE award of prime contracts. For the first reporting period of 2006, no prime contracts and only 3 subcontracts were awarded to DBEs. However, the 1.1% attained commitment for the first part of FFY 2006 does exceed the 0.8% calculated goal for 2006. For this reason, we believe the **FFY 2007 calculated goal DBE goal of 0.6% will be met via wholly race neutral measures.**

The Department uses its DBE Supportive Services allocation wholly to support the DBE Program, and not to pay administrative salaries. The funding supports a number of projects and/or initiatives around the state, including outreach and technical assistance to businesses.

Finally, as stated previously, the Department has no evidence of discrimination on the part of contractors and does have evidence of continuing good faith effort.

Public Participation

The public will be notified by publication the third full week in June in the Kennebec Journal, the State's newspaper of record for legal advertisements. Additionally, the goal notification and methodology will be

posted in other statewide newspapers (Bangor Daily News and the Portland Press Herald) and on the MaineDOT website. Several interested stakeholders will be notified directly by e-mail of the goal publication, including current service providers and those on the bidder's list. Public comment will be accepted for 45 days following the last date of publication.

A conference call will be set up to receive comment from notified agencies on Friday, July 14th at 2 pm through the Civil Rights Office. To participate in the call, dial 1-888-529-0347 and enter the participant code: 411455.

The following policy will be inserted into the new procedure manual for civil rights: "Prior to the publication of the DBE goal and methodology for public input each year, the MaineDOT Office of Civil Rights will host a conference call or meeting to solicit comments on the methodology process."